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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/966,413	09/28/2001	George G. Pappas	LUM 180	4358

7590 07/23/2004

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EXAMINER

COCKS, JOSIAH C

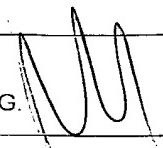
ART UNIT

PAPER NUMBER

3749

DATE MAILED: 07/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/966,413	PAPPAS, GEORGE G. 
Examiner	Art Unit	
Josiah Cocks	3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on RCE filed 4/23/2004.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,3-22,24 and 25 is/are pending in the application.
 4a) Of the above claim(s) 25 is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1, 3-22, and 24 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/23/2004</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/23/2004 has been entered.

Election/Restrictions

2. Claim 25 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made by original presentation and acknowledged **without** traverse in the reply filed on 4/23/2004.

Claim Rejections - 35 USC §§ 102 & 103

3. The following are quotations of the appropriate paragraphs of 35 U.S.C. 102 and 103(a) that form the basis for the rejections under these sections made in this Office action:

35 USC § 102

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

35 USC § 103(a)

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 1, 3-13, 16, 17, and 24 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over *Pappas* (US # 5,842,850) (cited by applicant in IDS filed 12/20/2002).

Pappas discloses in Figure 13 a freestanding candle (110) having a wick (84) supported by a fuel boy along a longitudinal wick axis, a plate/sheet (114, see Fig. 13) attached to the fuel body in proximity to a lower end of the wick, and an upright wick support (116) contacting the plate/sheet and holding the lower end of the wick. The plate/sheet (114) is described as being mounted to the bottom of candle (110) and is therefore regarded as "joined". This plate is not specifically termed "flame-resistant sheet," but is described as being made of either a combustible or noncombustible material (see col. 5, lines 50-51), and functions as an equivalent alternative to the floor (138) shown in Figure 14. This lower plate (114) and the floor (138) each serve the purpose of preventing molten fuel, which extinguishes the flame, from flowing out from under the candle (see col. 6, lines 4-8). Therefore, the examiner considers that when the plate is not intended to melt with the candle, the plate would inherently have some measure of flame resistance and meets applicant's recitation of a flame-resistant sheet. The examiner also considers that pedestal (112) is part of the sheet (114) and is imbedded within the candle (110).

In Figures 7-12 *Pappas* teaches several forms that the wick support may taken including in Figure 7 one that is sealingly bonded to its support layer by means of a plug (24) forming a liquid fuel flow barrier that also functions to form a support that is formed *in situ* unitarily with

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the wick. This plug forms a flame resistant agent at the lower end of the wick (see col. 3, lines 38-48) and is attached to its support by adhesives (see col. 4, lines 38-41). While *Pappas* does not specify in what manner the plate (114) is joined/mounted to the candle (110), the examiner considers that a person of ordinary skill in the art would recognize that, as adhesives (such as those attaching plug 24 to its support) are known as a means of attachment in the candle art, it would be simply a matter of obvious design choice to select an adhesive for joining/mounting the plate (114) to the candle (110) pictured in Figure 13.

Pappas further teaches that the wick support is high enough (i.e. at least half an inch) to prevent a candle fire (see col. 3, line 65 through col. 4, line 19).

5. Claims 14, 15, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Pappas* (US # 5,842,850), as applied to claim 1 above, in view of *Gentry* (US # 3,317,290).

Pappas teaches all the limitations of claims 14, 15, and 18 except that the sheet has a peripheral rim and is corrugated.

Gentry teaches a heat resistant sheet that has a peripheral rim/flange (20) and is corrugated (14).

Therefore, in regard to claims 14, 15, and 18, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the sheet/plate of *Pappas* to incorporate the sheet of *Gentry* as the peripheral flange and corrugations serve to form an enlarged chamber for holding a combustible fuel body (see *Gentry*, col. 2, lines 16-38).

6. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Pappas* (US # 5,842,850), as applied to claim 1 above, in view of *Pietruch et al.* (US # 6,155,451).

Pappas teaches all the limitations of claim 19 except that the sheet is dome-shaped.

Pietruch et al. teach a lower sheet (148a) that is dome-shaped (see Figs. 7-8).

Therefore, in regard to claim 19, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the sheet/plate of *Pappas* to incorporate the dome shape of *Pietruch et al.* as the dome configuration desirably results in a savings of total wax required (see *Pietruch et al.*, col. 8, lines 55-65).

7. Claims 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Pappas* (US # 5,842,850), as applied to claim 1 above, in view of *Hamblet* (US # 2,310,019).

Pappas teaches all the limitations of claims 20 and 21 except for multiple wicks.

As shown in *Hamblet*, it is well known in the art that candles may have multiple wicks (22).

Therefore, in regard to claims 20 and 21, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the candle of *Pappas* to incorporate the multiple wicks of *Hamblet* to provide greater light than a single candle (see *Hamblet*, col. 2, lines 8-15).

8. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Pappas* (US # 5,842,850), as applied to claim 1 above, in view of *Chambers et al.* (US # 5,961,318).

Pappas teaches all the limitations of claim 22 except that the wick support is crimped.

Chambers et al. teaches a candle wick support that is crimped (see Fig. 2 and col. 3, lines 1-17).

Therefore, in regard to claim 22, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the wick support of *Pappas* to incorporate the crimp of *Chambers et al.* for the desirable purpose of restricting the amount of fuel flow through the wick support to allow the wick to self-extinguish before the flame approaches the surface of a candle holder (see Abstract).

Response to Arguments

9. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection. *Pappas*, as has been applied above to the claims, clearly shows, among other things, a freestanding candle with an attached plate/sheet.

Conclusion

10. This action is made non-final. A THREE month shortened statutory period for reply has been set. Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) months from the mailing date of this communication.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Josiah Cocks whose telephone number is

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(703) 305-0450. The examiner can normally be reached on weekdays from 7:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus, can be reached at (703) 308-1935. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

jcc
July 21, 2004



JOSIAH COCKS
PRIMARY EXAMINER
ART UNIT 3749